

AMENDED IN SENATE SEPTEMBER 4, 2003

AMENDED IN SENATE AUGUST 18, 2003

AMENDED IN SENATE JULY 16, 2003

AMENDED IN SENATE JULY 2, 2003

AMENDED IN ASSEMBLY MAY 13, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1497**

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**Introduced by Assembly Member Montanez**  
**(Coauthors: Assembly Members Diaz, Levine, and Nunez)**

February 21, 2003

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An act to amend Sections 44004 and 45011 of, and to add Section 43501.5 to, the Public Resources Code, relating to solid waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1497, as amended, Montanez. Solid waste facilities: permits.

(1) The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated solid waste management program. Existing law prohibits the operation of a solid waste facility without a solid waste facilities permit and requires the operator of a solid waste landfill to submit to the board and the enforcement agency a plan for the closure and postclosure maintenance of the solid waste landfill and evidence of financial ability to provide for those costs. Existing law prohibits the operator of a solid waste facility from making

any significant change in the design or operation of the solid waste facility not authorized by the existing permit, unless the change is approved by the enforcement agency, pursuant to a specified procedure.

This bill would require a person ~~applying for who is required to file a solid waste facilities permit to include, in the closure and postclosure plan; to also file with the enforcement agency a Labor Transition Plan that includes provisions for the preferential reemployment and transfer rights of displaced employees, as specified, provisions to ensure that resources are available for taking these actions; and provisions for an agreement to comply to ensure compliance~~ with existing statutory requirements for relocations, terminations, and mass layoffs that are applicable to certain employers. *The bill would require a person submitting a final closure plan to additionally submit a certification to the board and the enforcement agency that the provisions in the labor transition plan will be implemented.*

The bill would require an enforcement agency to submit its proposed determination regarding whether a change to the solid waste facility will be approved to the board for comment, and to hold at least one public hearing on the proposed determination. The bill would also require the enforcement agency to submit an appeal of its determination to the board for comment, and to hold at least one public hearing on the appeal. The bill would require the enforcement agency to provide notice, as specified, of the hearing.

The bill would require the board to adopt regulations relating to the public hearing and that define the term “significant change in the design or operation of the solid waste facility that is not authorized by the existing permit.” The bill would increase various time periods regarding the filing of an application for revision of the solid waste facilities permit.

The bill would impose a state-mandated local program by imposing new duties upon enforcement agencies with regard to solid waste facilities permits, thereby imposing a state-mandated local program.

(2) Existing law authorizes an enforcement agency to issue an order establishing a time schedule for a solid waste facility to comply with requirements relating to waste management when the enforcement agency determines that the facility is not meeting those requirements. Existing law authorizes the order to provide for an administrative civil penalty in an amount not to exceed \$5,000 per day of violation, and not to exceed a total of \$15,000 in any one calendar year, if compliance is not achieved in accordance with the time schedule. Existing law



prohibits imposition of that penalty for the first 3 minor violations of the same requirement, as specified. Existing law requires the enforcement agency, before issuing an order imposing a civil or administrative penalty, to notify the enforcement agency's governing body and make specified determinations regarding the circumstances of the violation and alternatives to the penalty.

This bill would delete the cap on the total amount of the penalty in one calendar year, delete the prohibition on imposing the penalty for minor violations, and delete the requirement that the enforcement agency take those actions before issuing the order imposing a civil or administrative penalty. The bill would broaden the circumstances under which the order imposing the penalty may be made.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 43501.5 is added to the Public  
2 Resources Code, to read:  
3 ~~43501.5. In addition to the requirements of this article, a~~  
4 ~~person applying for a solid waste facilities permit shall include, in~~  
5 ~~the closure and postclosure plan, all of the following:~~  
6 ~~(a) Provisions that establish, subject to any requirements~~  
7 ~~already established pursuant to a collective bargaining agreement,~~  
8 ~~all of the following:~~  
9 ~~(1) Preferential reemployment and transfer rights of displaced~~  
10 ~~employees to comparable employment with the same employer for~~  
11 ~~a period of no less than one year following the closure of the solid~~  
12 ~~waste facility.~~  
13 ~~(2) A program to provide displaced employees assistance in~~  
14 ~~finding comparable employment with other employers.~~  
15 ~~(3) For the purposes of this subdivision, "comparable~~  
16 ~~employment" means the same or a substantially similar job~~  
17 ~~classification at equal or greater wage and benefit levels.~~

~~(b) Provisions to ensure that the amounts that the owner or operator will deposit in the trust fund or equivalent financial arrangement acceptable to the board will ensure that resources are available for taking the actions specified in subdivision (a).~~

~~(c) An agreement to comply with Chapter 4 (commencing with Section 1400) of Part 4 of Division 2 of the Labor Code.~~

43501.5. (a) *In addition to the requirements of this article, and Section 21780 of Title 27 of the California Code of Regulations, a person who is required to file a final closure plan shall also file with the enforcement agency a Labor Transition Plan that includes all of the following:*

(1) *Provisions that ensure, subject to any requirements already established pursuant to a collective bargaining agreement, preferential reemployment and transfer rights of displaced employees to comparable available employment with the same employer for a period of no less than one year following the closure of the solid waste facility.*

(2) *Provisions to provide displaced employees assistance in finding comparable employment with other employers.*

(3) *Provisions to ensure compliance with all applicable provisions of Chapter 4 (commencing with Section 1400) of Part 4 of Division 2 of the Labor Code.*

(b) *When submitting the final closure plan, the operator shall submit, in addition to the requirements of subdivision (a), a certification to the board and the enforcement agency that the provisions described in paragraphs (1) to (3), inclusive, of subdivision (a), will be implemented, subject to any requirements already established under a collective bargaining agreement.*

(c) *For the purposes of this section, “comparable employment” means the same or a substantially similar job classification at equal or greater wage and benefit levels in the same geographic region of the state.*

SEC. 2. Section 44004 of the Public Resources Code is amended to read:

44004. (a) An operator of a solid waste facility may not make a significant change in the design or operation of the solid waste facility that is not authorized by the existing permit, unless the change is approved by the enforcement agency, the change conforms with this division and all regulations adopted pursuant

1 to this division, and the terms and conditions of the solid waste  
2 facilities permit are revised to reflect the change.

3 (b) If the operator wishes to change the design or operation of  
4 the solid waste facility in a manner that is not authorized by the  
5 existing permit, the operator shall file an application for revision  
6 of the existing solid waste facilities permit with the enforcement  
7 agency. The application shall be filed at least 180 days in advance  
8 of the date when the proposed modification is to take place unless  
9 the 180-day time period is waived by the enforcement agency.

10 (c) The enforcement agency shall review the application to  
11 determine all of the following:

12 (1) Whether the change conforms with this division and all  
13 regulations adopted pursuant to this division.

14 (2) Whether the change requires review pursuant to Division  
15 13 (commencing with Section 21000).

16 (d) Within 60 days from the date of the receipt of the  
17 application for a revised permit, the enforcement agency shall  
18 inform the operator, and if the enforcement agency is a local  
19 enforcement agency, also inform the board, of its determination to  
20 do any of the following:

21 (1) Allow the change without a revision to the permit.

22 (2) Disallow the change because it does not conform with the  
23 requirements of this division or the regulations adopted pursuant  
24 to this division.

25 (3) Require a revision of the solid waste facilities permit to  
26 allow the change.

27 (4) Require review under Division 13 (commencing with  
28 Section 21000) before a decision is made.

29 (e) The operator has 30 days within which to appeal the  
30 decision of the enforcement agency to the hearing panel, as  
31 authorized pursuant to Article 2 (commencing with Section  
32 44305) of Chapter 4.

33 (f) Under circumstances that present an immediate danger to  
34 the public health and safety or to the environment, as determined  
35 by the enforcement agency, the 180-day filing period may be  
36 waived.

37 (g) (1) A permit revision is not required for the temporary  
38 suspension of activities at a solid waste facility if the suspension  
39 meets either of the following criteria:

1 (A) The suspension is for the maintenance or minor  
2 modifications to a solid waste unit or to solid waste management  
3 equipment.

4 (B) The suspension is for temporarily ceasing the receipt of  
5 solid waste at a solid waste management facility and the owner or  
6 operator is in compliance with all other applicable terms and  
7 conditions of the solid waste facilities permit and minimum  
8 standards adopted by the board.

9 (2) An owner or operator of a solid waste facility who  
10 temporarily suspends operations shall remain subject to the  
11 closure and postclosure maintenance requirements of this division  
12 and to all other requirements imposed by federal law pertaining to  
13 the operation of a solid waste facility.

14 (3) The enforcement agency may impose any reasonable  
15 conditions relating to the maintenance of the solid waste facility,  
16 environmental monitoring, and periodic reporting during the  
17 period of temporary suspension. The board may also impose any  
18 reasonable conditions determined to be necessary to ensure  
19 compliance with applicable state standards.

20 (h) (1) (A) Before making a final determination pursuant to  
21 subdivision (d) or hearing an appeal pursuant subdivision (e), the  
22 enforcement agency shall submit the proposed determination or  
23 the appeal to the board for comment and hold at least one public  
24 hearing on the proposed determination or the appeal. The  
25 enforcement agency shall give notice of the hearing pursuant to  
26 Section 65091 of the Government Code, except that the notice  
27 shall be provided to all owners of real property within a distance  
28 other than 300 feet of the real property that is the subject of the  
29 hearing, if specified in the regulations adopted by the board  
30 pursuant to subdivision (i). The enforcement agency shall also  
31 provide notice of the hearing to the board when it submits the  
32 proposed determination to the board.

33 (B) The enforcement agency shall mail or deliver the notice  
34 required pursuant to subparagraph (A) at least 10 days prior to the  
35 date of the hearing to any person who has filed a written request  
36 for the notice with a person designated by the enforcement agency  
37 to receive these requests. The enforcement agency may charge a  
38 fee to the requester in an amount that is reasonably related to the  
39 costs of providing this service and the enforcement agency may  
40 require each request to be annually renewed.



1 (C) *The enforcement agency shall consider environmental*  
2 *justice issues when preparing and distributing the notice to ensure*  
3 *that the notice is concise and understandable for*  
4 *limited-English-speaking populations.*

5 (2) If the board comments pursuant to paragraph (1), the board  
6 shall specify whether the proposed determination is consistent  
7 with the regulation adopted pursuant to subdivision (i).

8 ~~(i) (1) On or before January 1, 2005, the board shall adopt~~

9 (i) (1) *The board shall, to the extent resources are available,*  
10 *adopt regulations that implement subdivision (h) and define the*  
11 *term “significant change in the design or operation of the solid*  
12 *waste facility that is not authorized by the existing permit.”*

13 (2) While formulating and adopting the regulations required  
14 pursuant to paragraph (1), the board shall consider  
15 recommendations of the Working Group on Environmental Justice  
16 and the advisory group made pursuant to Sections 71113 and  
17 71114 and the report required pursuant to Section 71115.

18 SEC. 3. Section 45011 of the Public Resources Code is  
19 amended to read:

20 45011. (a) If an enforcement agency determines that a solid  
21 waste facility or disposal site, is in violation of this division, any  
22 regulations adopted pursuant to this division, any corrective action  
23 or cease and desist order, or any other order issued under this  
24 division, or poses a potential or actual threat to public health and  
25 safety or the environment, the enforcement agency may issue an  
26 order establishing a time schedule according to which the facility  
27 or site shall be brought into compliance with this division. The  
28 order may also provide for a civil penalty, to be imposed  
29 administratively by the enforcement agency, in an amount not to  
30 exceed five thousand dollars (\$5,000) for each day on which a  
31 violation occurs, if compliance is not achieved in accordance with  
32 that time schedule.

33 (b) Before issuing an order that imposes a civil penalty  
34 pursuant to subdivision (a), an enforcement agency shall do both  
35 of the following:

36 (1) Notify the operator of the solid waste facility that the  
37 facility is in violation of this division.

38 (2) Upon the request of the operator of the solid waste facility,  
39 meet with the operator of the solid waste facility to clarify  
40 regulatory requirements and to determine what actions, if any, that

1 the operator may voluntarily take to bring the facility into  
2 compliance by the earliest feasible date.

3 SEC. 4. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 a local agency or school district has the authority to levy service  
6 charges, fees, or assessments sufficient to pay for the program or  
7 level of service mandated by this act, within the meaning of  
8 Section 17556 of the Government Code.

